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Attorneys for Plaintiffs CLAUDIA SANCHEZ, ERIN WALKER
and WILLIAM SMITH, on behalf of themselves and all others
similarly situated,

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CLAUDIA SANCHEZ, ERIN WALKER and
WILLIAM SMITH, as individuals, and on behalf
of all others similarly situated,

Plaintiffs,

v.

WELLS FARGO & COMPANY, WELLS
FARGO BANK, N.A., and DOES 1 through 125,

Defendants.

) Case No.: C 07-05923 WHA (JCSx)

) Judge Assigned: Hon. William H. Alsup

) Original Complaint filed: November 21, 2007

) **DECLARATION OF RICHARD D. McCUNE**
) **IN SUPPORT OF REPLY TO DEFENDANTS'**
) **OPPOSITION TO PLAINTIFFS' MOTION**
) **FOR LEAVE TO FILE A FIRST AMENDED**
) **COMPLAINT; EXHIBITS**

) Date: May 1, 2008

) Time: 8:00 a.m.

) Courtroom 9, 19th Floor

I, RICHARD D. McCUNE, declare:

1. I am an attorney licensed to practice law before all of the courts of the State of California and I am a partner of McCune & Wright, LLP, counsel of record for Plaintiffs. The following facts are within my personal knowledge or based on records and files at my law firm, and, if called upon as a witness, I could and would testify competently thereto.
2. A true and correct copy of refined and adjusted Proposed First Amended Complaint is attached to this declaration as Exhibit "1."

- 1 3. A true and correct copy of the San Diego Superior Court's minute order regarding the
- 2 Sanchez motion to Vacate Class Action Settlement in the *Smith v. Wells Fargo Bank, N.A.*,
- 3 case number GIC802664, is attached to this declaration as Exhibit "2."
- 4 4. The Proposed First Amended Complaint substitutes two new class representatives and
- 5 removes one class representative. This occurred before Plaintiffs were to respond to any
- 6 discovery propounded by Defendants with regard to individual class representatives.
- 7 5. Upon filing this motion, I informed Defendants' counsel David Jolley and Sonya Winner via
- 8 e-mail sent on March 21, 2008 that Plaintiffs would accept and respond to discovery on the
- 9 First Amended Complaint as if it were already filed. Mr. Jolley responded via email on
- 10 March 25, 2008 that Defendants accepted that offer and served discovery on the substitute
- 11 class representatives that will be responded to at the same time as the class representatives in
- 12 the original complaint.
- 13 6. The sixty-three names are names of customers I am aware of who feel they have been
- 14 wrongly charged overdraft fees. As I informed Defense counsel David Jolley and Margaret
- 15 May during a telephone conference on March 27, 2008, Plaintiffs are undergoing
- 16 investigation and will provide a supplemental disclosure to provide complete information on
- 17 these individuals within the next 30-45 days.

18 I so declare the above is true and correct under penalty of perjury under the laws of the United
19 States. Executed this 17th day of April, 2008, at Irvine, California.

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